

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO**

LUBRIZOL ADVANCED MATERIALS, INC.)	
)	
Plaintiff,)	
v.)	Case No.: _____
)	
NATIONAL UNION FIRE INSURANCE)	
COMPANY OF PITTSBURGH, PA.)	
)	
Defendant.)	

NOTICE OF REMOVAL

National Union Fire Insurance Company of Pittsburgh, Pa. ("National Union") hereby removes the action pending in the Court of Common Pleas, Cuyahoga County, Ohio entitled *Lubrizol Advanced Materials, Inc. v. National Union Fire Insurance Company of Pittsburgh, Pa.*, Case No. CV17883684 (the "State Court Action") to the United States District Court for the Northern District of Ohio pursuant to 28 U.S.C. §§ 1332, 1441, and 1446 on the grounds set forth below.

BACKGROUND

1. The State Court Action is an insurance coverage dispute wherein Lubrizol Advanced Materials, Inc. ("Lubrizol") seeks a determination that National Union owes a defense and indemnity obligation under a commercial umbrella liability insurance policy issued to Lubrizol's corporate predecessor, PMD Group, Inc., in connection with the lawsuit styled *IPEX Inc. v. AT Plastics, Inc.*, 06-CV-316859PD1, pending in the Superior Court of Justice in Ontario, Canada (the "Underlying Lawsuit").

2. In accordance with 28 U.S.C. § 1446(a), a copy of all process and pleadings served on National Union in the State Court Action are attached as Exhibit A.

3. On July 27, 2017, Lubrizol filed its Complaint in the State Court Action. The Complaint alleges that Lubrizol faces third-party liability to AT Plastics, Inc. ("ATP") in the Underlying Lawsuit. The Underlying Lawsuit involves IPEX, Inc.'s ("IPEX") claim against ATP for damages related to IPEX's purchase of allegedly defective resin and catalyst products from ATP. The resin and catalyst products were allegedly used by IPEX to manufacture its cross-lined polyethylene ("PEX") pipe product. ATP allegedly sold its resin and catalyst product line to Lubrizol in 2001. ATP alleges Lubrizol is liable for amounts ATP is liable to IPEX.

4. In this action, Lubrizol seeks a determination of National Union's duty to defend and indemnify Lubrizol against ATP's third-party claims in the Underlying Lawsuit.

5. Lubrizol's Complaint asserts a claim for breach of contract against National Union and seeks a declaratory judgment as to National Union's defense and indemnity obligations. Lubrizol's breach of contract claim seeks compensatory damages in the amount of defense costs and damages incurred by Lubrizol in the Underlying Lawsuit.

6. There is complete diversity of citizenship between Lubrizol and National Union because:

(a) Lubrizol is a corporation organized under the laws of the State of Delaware with its principal place of business in the State of Ohio; and

(b) National Union is a corporation organized under the laws of the State of Pennsylvania with its principal place of business in the State of New York.

7. There is more than \$75,000 in controversy in the State Court Action.

8. Accordingly, this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1332(a), and removal is thus proper under 28 U.S.C. § 1441(a).

9. This Notice of Removal is timely under 28 U.S.C. §1446(b), because it was filed on August 25, 2017, which is within thirty days of service of Lubrizol's Complaint on National Union on July 28, 2017. *See* Exhibit A.

10. National Union, upon filing this Notice of Removal in the office of the Clerk of the United States District Court for the Northern District of Ohio, also caused to be filed a copy of this Notice of Removal with the Clerk of the Court of Common Pleas, Cuyahoga County, to affect removal of this action pursuant to 28 U.S.C. §1446(d).

11. This matter was filed in a state court within the judicial district of the United States District Court for the Northern District of Ohio.

WHEREFORE, National Union respectfully requests that this case proceed in this Court as a removed claim or cause of action under 28 U.S.C. §§1441 and 1446.

Dated: August 25, 2017

Respectfully submitted,

By:



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CERTIFICATE OF SERVICE

On this 25th day of August, 2017, the forgoing Notice of Removal was sent via U.S. Mail
to the following:

Julie A. Harris
Nada G. Faddoul
The Lubrizol Corporation
29400 Lakeland Boulevard
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Attorneys for Plaintiff Lubrizol Advanced Materials, Inc.



One of the Attorneys for Defendant National
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